



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,602	10/06/2003	Olin Palmer	ACS-65628 (2929D)	5764
24201	7590	02/20/2009		
FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045			EXAMINER TRUONG, KEVIN THAO	
			ART UNIT	PAPER NUMBER
			3734	
			MAIL DATE	DELIVERY MODE
			02/20/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/680,602

Applicant(s)

PALMER ET AL.

Examiner

Kevin T. Truong

Art Unit

3734

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/11/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 6, 10, 11 and 13-28 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6 and 13-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is in response to Pre-Appeal Brief Conference request 01/11/2008.

Election/Restrictions

Note: The examiner does not find claims 10 and 11 read on the elected species 24 due to claim 10 recited "the distal tapered section including a coil having a tapered profile and" and claim 11 recited "the distal tapered section including ribs extending generally perpendicular to a longitudinal axis of the distal tapered section".

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

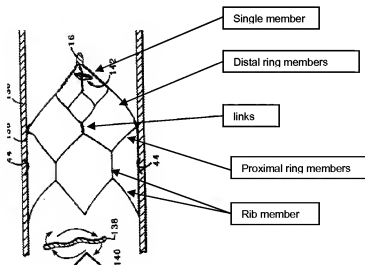
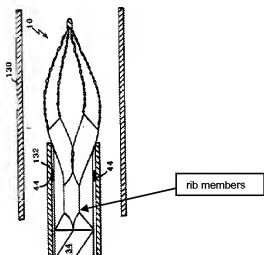
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6, and 13-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Nott et al. (U.S. 6,013,093).

Nott et al discloses the claimed invention in figures 5, 5A, and 7, an elongated member (134) having a first end portion configured to extend exterior of the body lumen; a body (10,170) attached to the second end portion of the elongate member (134); a pair of rib members (drawing below) extending distally from the elongate body (134) and branching into a pair of proximal ring members (drawing below); wherein each proximal ring member branching into pairs of distal ring members (at 184,186) to thereby define pairs of adjacent distal ring members (at 184,186) converging into a plurality of single members (176) which converge to

Art Unit: 3734

define a distal end of the body and furthermore, wherein the proximal ring members are connected to the distal ring members (184,186) via plurality of links (shown drawing below).



3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Dormia (U.S. 4,347,846).

Dormia discloses substantially as claimed in figures 1-3, an elongated member (2,3) having a first end portion configured to extend exterior of the body lumen; a body (8) attached to the second end portion of the elongate member (2,3) and wherein the body (8) including proximal and distal portion and midsection.

Response to Arguments

Applicant's arguments filed 07/02/2007 have been fully considered but they are not persuasive. With respect to claims 1, 6, and 13-28, According to applicant, Nott patent does not disclose body (10) neither attached nor connected to the elongated member (pusher 134). This is simply not convincing, giving broadest reasonable interpretation Nott patent as shown in figure 5 and col. 7, lines 54-66, the body (10) is considered connected or attached to the elongated member (134) when delivery the filter (10) in the lumen of the vessel (see dictionary.com below for details). The examiner has now provided lines with arrows pointing out the structures which correspond to the elements of the claims. Furthermore, the filter as described by Dormia patent considered having a substructure that absorbs forces applied to the body of the elongated member as recited in claim 1. As least for these reasons, the Examiner disagrees with Applicant's remarks and has maintained the grounds of rejection under 35 U.S.C. 102 (b) as being anticipated by Nott et al '093 and Dormia '846 for the reasons as set forth in the previous office action.

Art Unit: 3734

<http://dictionary.reference.com/browse/attach>

at·tach



-verb (used with object)

1. to fasten or affix; **join; connect**: *to attach a photograph to an application with a staple.*
2. to join in action or function; make part of: *to attach oneself to a group.*
3. *Military.* to place on temporary duty with or in assistance to a military unit.
4. to include as a quality or condition of something: *One proviso is attached to this legacy.*
5. to assign or attribute: *to attach significance to a gesture.*
6. to bind by ties of affection or regard: *You always attach yourself to people who end up hurting you.*
7. *Law.* to take (persons or property) by legal authority.
8. *Obsolete.* **to lay hold of**; seize.

attach*verb*

1. cause to be attached [ant: detach]
2. be attached; **be in contact with**

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-4705. The examiner can normally be reached on Monday-Friday from 8:00 AM to 4:30 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin T. Truong/
Primary Examiner, Art Unit 3734

Kevin T. Truong
Primary Examiner
Art Unit 3734